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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,491	01/09/2004	David W. Gohl	1847US01	6176
43896 7590 07/18/2008 ECOLAB INC. MAIL STOP ESC-F7, 655 LONE OAK DRIVE EAGAN, MN 55121			EXAMINER DOUYON, LORNA M	
			ART UNIT 1796	PAPER NUMBER
			MAIL DATE 07/18/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/754,491

**Applicant(s)**

GOHL ET AL.

**Examiner**

Lorna M. Douyon

**Art Unit**

1796

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2, 4, 6, 10, 11, 14-21 and 23-34 is/are pending in the application.
- 4a) Of the above claim(s) 23-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 6, 10, 11 and 14-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ ~~Notice of Informal Patent Application~~
- 6) ☐ Other: \_\_\_\_\_

1. This action is responsive to the amendment filed on April 8, 2008.
2. Claims 1-2, 4, 6, 10-11, 14-21, 23-34 are pending. Claims 23-34 are withdrawn from consideration as being drawn to nonelected claims.
3. The rejection of claims 1-2, 4, 6, 10-11, 13-21 under 35 U.S.C. 112, first paragraph is withdrawn in view of Applicants' amendment.
4. Claims 1-2, 6, 10-11, 15, 20 and 21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Heinlein et al. (4,093,417) for the reasons set forth in the previous office action.
5. Claims 1-2, 4, 6, 10, 15, 20 and 21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Lindner et al. (US Patent No. 3,131,991) for the reasons set forth in the previous office action.
6. Claim 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Heinlein or Lindner as applied to the above claims, and further in view of Werdehausen et al. (US Patent No. 3,718,597) for the reasons set forth in the previous office action.

7. Claims 16-19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Heinlein or Lindner as applied to the above claims, and further in view of Barnes(US Patent No. 4,988,363) for the reasons set forth in the previous office action.

### ***Response to Arguments***

8. Applicants' arguments filed April 8, 2008 have been fully considered but they are not persuasive.

With respect to the rejection based upon Heinlein, Applicants argue that the presently claimed method comprises first washing the laundry with a detergent use solution at an alkaline pH, a separate antimicrobial and bleaching composition is then applied to the laundry, wherein a pH adjusting agent is added to the antimicrobial and bleaching composition to raise the pH from between about 2 to about 4 to between about 8 to about 11. Applicants then argue that Heinlein does not teach such a method, and that "wetting" the laundry as taught by Heinlein is not the same as, nor does it suggest, first washing the laundry as is presently claimed. Applicants also argue that Heinlein does not teach or suggest a single composition applied to laundry after it has been washed, wherein the composition has both antimicrobial and bleaching properties, rather Heinlein teaches an acidic prewash followed by a separate conventional main wash. Applicants also argue that: *"Heinlein et al. teaches away from the use of an oxygen bleach in an acidic environment as is presently claimed. Heinlein et al. states that sodium bisulfate can be mixed with perborate to yield a powder with the advantage of oxygen bleaching. See col. 6, lines 27-31. However, Heinlein et al. further states that*

*the "disadvantage is that the commercial optical brighteners normally show a reversible yellowing in an acid environment, which leads...to a transformation into a yellow pigment whose coloration is no longer reversible." See col. 6, lines 32-36. Thus, Applicants submit the presently claimed method would not have been obvious to one of skill in the art based on the teachings of Heinlein et al."*

The Examiner respectfully disagrees with the above arguments because, as stated in the previous office action, in col. 5, lines 15-21, Heinlein teaches that *"in commercial laundries the washing time determines the profitability, and here it may be of advantage to wet the dirty wash at first neutral or even slightly alkaline in order to saturate the fibers and protein stains, and the carbonate incrustations on the fiber surface are subsequently reliably dissolved in a short (1-3 minutes) acid bath."* The term "wash" in the dictionary means "wet thoroughly" or "saturate", hence, the teaching of Heinlein above, i.e., "wet the dirty wash at slightly alkaline in order to saturate the fibers and protein stains" read on the "washing the laundry" step (a) of the present claim 1.

With respect to Applicants' argument regarding Heinlein not teaching or suggesting a single composition applied to laundry after it has been washed, wherein the composition has both antimicrobial and bleaching properties, please note that the present claims' "bleaching and antimicrobial composition" is not limited to a "single composition". The claim is open to the inclusion of other components as evidenced by the "comprising" term following said phrase.

With respect to Applicants' argument regarding Heinlein's teaching away from the use of an oxygen bleach in an acidic environment as is presently claimed, in col. 6,

lines 13-15, Heinlein teaches that sodium bisulfate is particularly suitable for the acidification of the prewash solution, especially in household washing machines, and in col. 6, lines 27-31, Heinlein also teaches that it is also possible to mix the sodium bisulfate with 5% percarbonate or perborate, and that the powder obtained has the additional advantage of oxygen bleaching during the saturation or wetting process. With this teaching, it is clear that oxygen bleach is used in the acidic environment. The disadvantage that is discussed in col. 6, lines 31-36 which is yellowing and no longer reversible, is due to the presence of optical brighteners with percarbonate. The disadvantage is not mentioned with other oxygen bleaches like perborate. Hence, it cannot be said that Heinlein teaches away from the use of oxygen bleach in an acidic environment.

With respect to the rejection based upon Lindner, Applicants argue that Lindner does not teach washing laundry with a detergent use solution at an alkaline pH, followed by application of a bleaching and antimicrobial composition, rather, Lindner teaches combining an acidic concentrate with an alkaline concentrate, in any order, to create a neutral or slightly alkaline use solution. Applicants also argue that nowhere does Lindner disclose that the laundry is subjected to a pH shift to both bleach and sanitize the laundry, and to the contrary, the acidic and alkaline concentrates of Lindner are combined to make a neutral wash solution.

The Examiner respectfully disagrees with the above arguments because in col. 2, line 70 to col. 3, line 3, Lindner teaches that the alkaline component liquid water-containing concentrate may be applied to the article to be treated in the washing

medium, and after a suitable prewashing treatment, the acid component liquid water-containing concentrate may be added, and in col. 7, lines 8-16, Lindner also teaches that the acid and alkaline concentrates are introduced into the wash water in any desired ordinal sequence depending upon the stability of the clothing or laundry to the particular concentrates.

With respect to the rejection of claim 14 under § 103(a) as unpatentable over Heinlein or Lindner in view of Werdehausen; claims 16-19 under § 103(a) as unpatentable over Heinlein or Lindner in view of Barnes, Applicants argue that these claims ultimately depend from independent claim 1, and Applicants believe that claim 1 is patentable in light of the prior art of record for the reasons discussed above, and that the combinations of Heinlein, Lindner, Werdehausen or Barnes do not remedy the shortcomings of the prior art identified above.

The responses to Heinlen and Lindner above apply here as well.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Lorna M. Douyon/  
Primary Examiner  
Art Unit 1796



